

DATE 9-5-07

APPLICATION NUMBER 10/587,049

DOC CODE Pet. Dec

DOC DATE 9-5-07

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05 SEP 2007

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In re Application of	:	
BERNARD et al.	:	
Application No.: 10/587,049	:	DECISION ON PETITION
PCT No.: PCT/EP2005/050374	:	
Int. Filing Date: 28 January 2005	:	UNDER
Priority Date: 31 January 2004	:	
Attorney Docket No.: W1.2331 PCT-US	:	37 CFR 1.497(d)
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This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" filed in the United States Patent and Trademark Office (USPTO) on 11 May 2007, which has properly been treated as a petition under 37 CFR 1.497(d).

### **BACKGROUND**

On 28 January 2005, applicants filed international application PCT/EP2005/050374, which designated the United States and claimed a priority date of 31 January 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 17 November 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 July 2006.

On 24 July 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 28 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 01 December 2006, applicants filed the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS, which has properly been treated as a petition under 37 CFR

1.497(d). The petition was accompanied by statements from Anton Weis, Wolfgang Joos, and Peter Wilhelm Kurt Leidig, a consent of assignee statement, and a statement under 37 CFR 3.73(b).

### **DISCUSSION**

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92<sup>bis</sup> subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

Items (1)-(3) have been satisfied. Item (4) is not required.

The declaration of inventors filed 11 May 2007 is in compliance with 37 CFR 1.497(a)-(b).

### **CONCLUSION**

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Andreas Ewald Heinrich Bernard, Anton Franz Ernt, Helmut Holm, Wolfgang Joos, Peter Wilhelm Kurt Leidig, Georg Schneider, Martin Heinz Schoeps, Anton Weis, and Kurt Johannes Weschenfelder as inventors.



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